

REMARKS

The Office Action

Claims 36 and 39-44 are pending. Claims 36, 39, 40, 43, and 44 are rejected for lacking enablement over the full scope of the claims and claims 41-43 are rejected as being obvious over Buemi et al. (Acta Derm Venereol. 82:411-417 (2002)) in view of Dunn (Clin Podiatr Med Surg 4:413-418 (1987)), Brines et al. (U.S. 2003/0104988), and Bhaskaran (US 2004/0136952). Each of these rejections is addressed in turn.

Claim amendments

Claim 36 has been amended to cancel reference to application of erythropoietin (EPO) to a skin graft. Claim 41 has been amended to incorporate the limitations of claim 44, which has been cancelled. Claim 43 has been amended to depend from claim 41. Claims 39 and 42 have been amended for clarity. No new matter is added by these amendments.

Rejections under 35 U.S.C. § 112, first paragraph

Claims 36, 39, 40, 43, and 44 are rejected as lacking enablement over the full scope of the claims. Claim 43 has been amended to dependent from claim 41 and claim 44 has been cancelled, rendering this rejection of claims 43 and 44 moot. The Office stated that while the specification is enabling for “topically applying erythropoietin (EPO) to [a burn wound],” it is not enabling for “topically applying erythropoietin (EPO) to [a] skin graft, then applying said skin graft to [a burn wound].” Solely to expedite prosecution, Applicant has amended claim 36 to only recite topical application of EPO to a burn wound, which the Office acknowledged to be enabled. Applicant reserves the right to pursue the cancelled subject matter in a subsequent continuing application. In view of this amendment, the rejection of claim 36, and dependent claims 39 and 40, for lack of enablement can be withdrawn.

Rejections under 35 U.S.C. § 103(a)

Claims 41-43 are rejected as being obvious over Buemi in view of Dunn, Brines, and Bhaskaran. Applicant previously argued, and the Office agreed, that Buemi does not teach

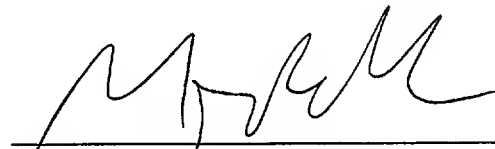
topical administration of EPO (see page 2, paragraph 2 of the pending Office action). However, the Office stated claim 41 “does not specify, ‘topically administering EPO’ . . . Because the instant claim does not state *how* EPO is introduced, it encompasses all types of administration.” In view of the Office’s contention, and solely to expedite prosecution, Applicant has amended claim 41 to recite introduction of EPO “by topical administration.” Consequently, the references cited by the Office do not teach or suggest every limitation of amended claim 41 (and dependent claims 42 and 43). Therefore, the rejection for obviousness of claims 41-43 can be withdrawn.

CONCLUSION

Applicant submits that the claims are in condition for allowance, and such action is respectfully requested. If there are any charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

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